

**RECEIVED** IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

2005 JUL 29 P 1:41

**GLENDORA TURNER,** )  
**Individually, and as** )  
**Administratrix of the Estate of** )  
**WILLIAM LEE TURNER,** )  
**Deceased,** )

**Plaintiff,** )

**v.** )

**Case No.:** 2:05cv702-M

**MERCK & CO., INC., a foreign** )  
**Corporation, ANNE BRANDON,** )  
**an individual, LAMONDE** )  
**RUSSELL, an individual, et al.,** )

**Defendants.** )

**Removed from the Circuit  
Court of Bullock County,  
Alabama**

**MOTION TO DISMISS**

Without waiving any other defense he may have to this lawsuit, Defendant Lamonde Russell moves to dismiss the Plaintiff's Complaint, under Rule 12(b)(6) of the Federal Rules of Civil Procedure, for failure to state a claim upon which relief can be granted. In support of this motion, Russell states that he has been fraudulently joined to this action, and incorporates the legal arguments, citations, and exhibits in Merck & Co., Inc.'s Notice of Removal.



R. Austin Huffaker, Jr.  
One of the Attorneys for Defendant,  
Merck & Co., Inc.

OF COUNSEL:

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**CERTIFICATE OF SERVICE**

I hereby certify that I have served the above and foregoing document upon all interested parties by placing a copy of same in the United States Mail, postage prepaid and properly addressed on this the 29<sup>th</sup> day of July 2005, as follows:

Andy D. Birchfield, Jr.

J. Paul Sizemore

BEASLEY, ALLEN, CROW,

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